



OVERVIEW OF LAWS AND REGULATIONS

Equal Credit Opportunity Act

Equal Credit Opportunity Act (Regulation B)

Executive Summary:

The Equal Credit Opportunity Act (ECOA), as implemented by Regulation B (12 CFR 202), promotes the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age provided the applicant has the capacity to contract). It also protects against discrimination based on an applicant's participation in and receipt of income from a public assistance program or an applicant's good faith exercise of any right under the Consumer Credit Protection Act. The regulation imposes certain requirements on creditors to notify applicants of action taken on their applications and to collect information about an applicant's race, sex, marital status and age in connection with applications for certain dwelling-related loans. In addition, creditors must adhere to other prescribed rules including those related to taking and evaluating applications, notifying an applicant of action taken on their application, providing copies of appraisal reports used in connection with credit transactions, reporting and maintaining credit histories, and retaining records. Regulation B does not, however, prevent a creditor from considering any pertinent information necessary to evaluate the creditworthiness of an applicant. Moreover, the regulation includes a section stipulating that information generated by self-tests voluntarily conducted by the institution to determine its compliance with the ECOA and Regulation B is considered privileged, as provided therein. Please note that the ECOA, the Fair Housing Act, and OTS's Nondiscrimination Regulations should be read together in order to fully understand the scope of a thrift's fair lending obligations.

Business Areas Impacted:

- Retail, Residential and Commercial Lending Units
- Credit Application Processing
- Credit Underwriting
- Appraisal of Real Estate
- Credit Product Marketing/Forms
- Credit Information Reporting
- Credit Operations
- Credit Scoring Systems
- Customer Service



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Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Policies/Procedures</p> <p>Adopt a policy for implementing the ECOA and Regulation B and creating an internal environment that does not tolerate discrimination in any aspect of the credit transaction process (i.e. soliciting, taking, evaluating, and acting on credit applications). Establish and maintain written procedures (task specific) and internal controls to ensure compliance with regulatory requirements by persons and departments involved in all phases of the credit transaction process.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>No Discrimination on a Prohibited Basis</p> <p>Ensure that lending officers and employees of the institution do not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction. Prohibited bases include: race, color, religion, marital status, age, the receipt of public assistance income, or the good faith exercise of rights under the Consumer Credit Protection Act.</p>	During any aspect of the credit application or loan transaction process.	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>No Discouraging of Applications</p> <p>Ensure that lending officers and employees of the institution do not discourage applicants or prospective applicants on a prohibited basis from making or pursuing an application.</p>	In connection with advertising or otherwise, including taking applications.	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Marketing Guidelines</p> <p>Advertising Copy</p> <p>Loan Officer Scripts</p>



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<p>Inquiries concerning a Spouse</p> <p>Ensure that lending officers and employees of the institution do not request any information concerning the spouse or former spouse of an applicant except when the spouse has rights of access to the account, is contractually liable on the account or the applicant is relying on spousal income, child support, alimony, or property as a basis for repayment.</p>	<p>During application taking, processing, underwriting or decision-making.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Training materials</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Inquiries concerning Marital Status</p> <p>Ensure that lending officers and employees of the institution do not inquire about the marital status of an applicant who is applying for individual unsecured credit. If the application is for secured credit, inquire about applicant's marital status is permitted using terms, "married", "unmarried" and "separated".</p>	<p>During all aspects of credit activity, including taking applications, processing, underwriting or decision-making in connection with an application for credit.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p> <p>Training materials</p>
<p>Inquiries concerning Other Income</p> <p>Ensure that lending officers and employees of the institution do not inquire whether income stated in an application is derived from alimony, child support, or separate maintenance payments unless applicant is given choice as to whether such information is to be considered in the creditor's determination of creditworthiness.</p>	<p>During the taking, processing, underwriting or decision-making associated with a credit application.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Inquiries concerning Applicant's Sex</p> <p>Ensure that lending officers and employees of the institution do not inquire about the sex of an applicant; however, an applicant can be requested to designate a title (such as Ms., Miss, Mr. or Mrs.), on the application form, if the form discloses that such a designation is optional.</p>	<p>During the taking, processing, underwriting or decision-making associated with a credit application.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Application Forms (See Appendix B of Regulation B)</p>



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<p>Inquiries on Childbearing, Childrearing</p> <p>Ensure that lending officers and employees of the institution do not inquire about birth control practices or the bearing or rearing of children. Information about dependents may be requested if sought from all applicants.</p>	<p>During the taking, processing, underwriting or decision-making associated with a credit application.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Written Applications</p> <p>Written applications must be taken for credit related to the purchase or refinancing of a principal residence secured by the residence. (Note: these are the same types of credit covered by Section 202.13(a) for which monitoring information must be collected)</p>	<p>Continuing</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Rules on Use of Information</p> <p>Creditors are not permitted to take the following into account when evaluating the creditworthiness of applicants:</p> <ol style="list-style-type: none"> 1. Any prohibited basis, except as provided by the ECOA and Regulation B; 2. Age or receipt of public assistance (with exceptions noted in Section 202.6(b)(2)); 3. Assumptions or statistics related to childbearing or childrearing; or 4. Telephone listing in name of applicant. <p>Also note the following limits on the use of information:</p> <ol style="list-style-type: none"> 1. Income - no discounting/exclusion of income if derived from part-time employment, annuity, pension, public assistance, alimony, or child support. 	<p>Throughout credit decision-making process.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>



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<p>2. Credit history - consider accounts that the applicant and applicant's spouse use or on which they are contractually liable. Also, consider information offered by applicants concerning inaccuracies in their credit history.</p> <p>3. Immigrant status - may consider applicant's immigration status as it relates to rights/remedies regarding repayment.</p>		
<p>Credit Scoring Systems: Use of Age</p> <p>Use of a credit scoring system that scores age as a predictive variable is permissible only when it is empirically derived and is demonstrably and statistically sound. The age of an elderly applicant may not be assigned a negative factor or value.</p>	Applies when credit-scoring systems that score age are utilized.	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Scorecards, development data and validation test results</p>
<p>Action on Open-End Accounts</p> <p>Creditors are restricted from terminating, changing account terms, or requiring reapplications for open-end accounts based on changes of age or retirement status. Reapplications may not be required for a change of marital status (where spouse had no liability and spousal income had no impact on credit decision).</p>	Continuing (Review of existing open-end accounts)	Credit Operations Guidelines
<p>Spousal Signatures</p> <p>Creditors are restricted from requiring the signature of an applicant's spouse or other person on any credit instrument if the applicant qualifies for the amount and terms of credit requested.</p>	Upon execution of credit obligations	Loan Origination/Application Processing/Underwriting Guidelines Security Agreements, Mortgages, and related instruments
<p>Insurance</p> <p>Creditors may not refuse to extend credit and may not terminate an account because credit life, health, accident, disability, or other credit-related insurance is not available based on the applicant's age.</p>	Continuing	<p>Loan Origination/Application Processing/Underwriting Guidelines Credit Operations Guidelines</p> <p>Insurance Sales Activities</p>



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<p>Furnishing Credit Information</p> <p>Creditors furnishing credit information must abide by requirements enabling separate tracking of spouses and their individual and/or joint credit histories.</p>	<p>Whenever furnishing credit information.</p>	<p>Credit Information Reporting Guidelines</p> <p>Credit Operations Guidelines</p> <p>Routine reports or other responses used to provide credit information</p>
<p>Providing Appraisals</p> <p>Provide a copy of the appraisal report used in connection with an application for credit to be secured by a lien on a dwelling, either as a matter of routine or upon written request of applicants who have been notified in writing of their right to obtain a copy.</p>	<p>Generally within 30 days of request. (Notice of right to obtain appraisal report to be given no later than notice of action taken.)</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p>
<p>Notification of Action Taken</p> <p>Provide written notification of action taken on applications for credit that includes a statement of specific reasons for the action (or disclosure of right to obtain such reasons), name and address of creditor, and name and address of creditor's federal regulatory agency. The notification must also contain a statement of the provisions of Section 701(a) of the ECOA that is substantially similar to the language provided in Section 202.9(b).</p>	<p>Within 30 days after completed application or within 30 days after taking adverse action on an incomplete application.</p> <p>Within 30 days after taking adverse action of an existing account.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Credit Operations Guidelines</p> <p>Notification Form (See Appendix B of Regulation B)</p>



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<p>See also special provisions concerning:</p> <ol style="list-style-type: none"> 1. Notification to business credit applicants (Section 202.9(a)(3)) 2. Incomplete applications (Section 202.9(c)) 3. Withdrawal of approved applications (Section 202.9(e)) 4. Applications submitted through third party (Section 202.9(g)) 5. Multiple applicants (Section 202.9f)) 	<p>Within 90 days after notifying the applicant of a counteroffer if the applicant does not expressly accept or use the credit offered.</p>	
<p>Monitoring Information</p> <p>In connection with applications for the purchase or refinancing of a principal residence secured by the residence, the credit application must request information regarding the applicant(s) race or national origin, sex, marital status and age.</p> <p>If the applicant(s) chooses not to provide some or all of the information, the creditor should note that fact on the application and, to the extent possible, should note the race or national origin and sex of the applicant(s) based on visual observation or surname.</p> <p>See also additional information that must be disclosed to applicants concerning the collection and use of the monitoring information. (Section 202.13(c))</p>	<p>During taking of applications</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Application Form (See Appendix B of Regulation B)</p> <p>May involve separate form referring to the Application</p>
<p>Record Retention</p> <p>Preserve applications (in original form or legible copy), monitoring information, information used in evaluating the application and required notifications. (Section 202.12)</p>	<p>Generally, 25 months (12 months for business credit) after date of notice of action taken or of incompleteness. (A longer period applies if</p>	<p>Record Retention Guidelines</p> <p>Loan Application files</p> <p>All appropriate documentation, records to be retained</p>



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Note variations in the record retention requirements for certain business-credit applications and self-tests. (Section 202.12(b)(5) and (6))	an investigation or enforcement proceeding is underway.)	
<p>Self-Testing</p> <p>Institutions have a legal privilege in information developed as a result of self-tests that they voluntarily conduct to determine their compliance with the ECOA and Regulation B. The privilege applies only if the definition of “self-test” is met and the creditor takes appropriate corrective actions as described in Section 202.15.</p> <p>Note that data or factual information that is available or can be derived from credit or application files is not privileged. Moreover, data collection required by law or any government authority is not a voluntary self-test.</p> <p>The privilege may be lost under certain circumstances described in the regulation.</p>	Continuing	Self-Test Report and Results
<p>Training</p> <p>Provide training to all employees involved in any aspect of taking, evaluating, or acting on a credit application or furnishing/maintaining credit information. In addition, persons involved in marketing and credit operations should receive appropriate instruction relative to their responsibilities.</p> <p>All employees of the institution should comprehend the basic principles and core requirements of the ECOA and related fair lending laws and regulations.</p>	Continuing	Policies and Procedures Curriculum Training records



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<p>Monitoring</p> <p>Establish internal controls to supervise the various phases of the credit application process on a periodic basis, including taking and evaluating applications, providing appraisal reports, and reporting credit histories. This process should focus on the institution's compliance with the substantive nondiscrimination requirements as well as its adherence to the technical provisions of the ECOA and Regulation B.</p> <p>An internal or external audit should be conducted at least annually to assess overall compliance with the ECOA and Regulation B and to ensure that the institution's practices conform to its policies and procedures.</p>	Continuing	Internal Review Reports
<p>Self-Evaluation</p> <p>Establish and execute an internal review program emphasizing self-assessment reviews of the loan application process for compliance with regulatory obligations and institution standards</p>	Per Risk Schedule	<p>Compliance Management Program</p> <p>Written reports (include deficiencies and corrective action)</p> <p>Audit reports</p>
<p>Updating</p> <p>Update Policies, procedures, application forms, advertisements, as necessary to reflect changes in regulations, internal systems, or operations. Ensure effective communication and distribution of updated materials to all levels of personnel.</p>	Continuing	<p>All Affected documentation</p> <p>Institution Web site</p>



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Consumer Complaints Ensure an effective process of handling, reporting, tracking, and resolving consumer complaints derived the credit application process.	Continuing	Complaint and response documentation Complaint Activity Database Written Reports